

REMARKS/ARGUMENTS

The Office Action has been carefully considered. Claims 1, 3, 7, 15-31, 53, 55, and 59-60 are currently amended. Claims 9-12, 14, 32-36, and 51-52 are withdrawn. Claims 13, 37, and 39-50 are canceled. Claims 61-64 are new. Claims 1-12, 14-36, 38, and 51-64 are pending. In the Office Action, claims were rejected in the following manner.

1. Claims 1-8 and 15-31 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.
2. Claims 1-8, 15-31, and 53-60 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.
3. Claims 1-8, 15-31, and 53-60 were rejected under 35 U.S.C. § 112, second paragraph, as being unclear.
4. Claims 1-8, 15-31, and 53-60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mages et al's U.S. Patent No.: 6,185,306 (hereinafter "*Mages*"), in view of Hazra's U.S. Patent No.: 6,510,553 (hereinafter "*Hazra*"), and further in view of Reitmeier et al's U.S. Patent No.: 7,457,415 (hereinafter "*Reitmeier*").

Interview Summary

Applicant thanks the Examiner for the courtesy extended during her interview with Applicant's representative on August 5, 2010 ("the interview"). During the interview, discussion focused around the subject matter of the previously submitted claim amendments, including the interleaving of portions from first and second files to assemble a renderable portion of media. It was agreed that this subject matter distinguishes over the cited art. However, the Examiner suggested claiming this subject matter using terminology with more explicit support in the specification. Claims 1, 3, 7, 15-31, 53, 55, and 59-60 are currently amended according to the Examiner's suggestion.

35 U.S.C. § 101 Rejections

Claims 1-8 and 15-31 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 1-8 have been clarified to specify that a particular "electronic device" performs the claimed "receiving," "accessing," and "reconstructing" steps. Similarly, Claims 15-25 have been clarified that a particular "electronic media play apparatus" is

configured by the instructions to perform the various steps recited. Furthermore, Claims 26-31 have been clarified to specify that the processor configures the various “means” to perform the recited operations. Applicant respectfully submits that Claims 1-8 and 15-31 are directed to statutory subject matter and are allowable under § 101.

35 U.S.C. § 112, first paragraph, Rejections

Claims 1-8, 15-31, and 53-60 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement because the specification is said to not support “interleaving” as a way to assemble files. Although Applicant maintains that this element was inherently and/or implicitly disclosed in the specification, after discussion of this element during the interview, Applicant has nonetheless amended Claims 1-8, 15-31, and 53-60 using terms with explicit support in the specification.

For example, amended Claim 1 recites a method of assembling a media file for playing in an electronic device, comprising:

receiving by the electronic device a first data file from a first computing device via a first communication channel, wherein the first data file comprises a first multiplicity of encoded-media-data portions from **a first multiplicity of logically non-contiguous intervals spaced throughout the media file**, wherein the electronic device is incapable of individually rendering the first data file as the media file based at least in part on a lack of a second multiplicity of encoded-media-data portions from a second multiplicity of logically non-contiguous intervals spaced throughout the media file;

receiving by the electronic device a second data file, wherein the second data file comprises the second multiplicity of encoded-media-data portions from the **second multiplicity of logically non-contiguous intervals spaced throughout the media file**, wherein the electronic device is incapable of individually rendering the second data file as the media file based at least in part on a lack of the first multiplicity of encoded-media-data portions; and

reconstructing, by the electronic device, a renderable portion of the media file by **combining at least some of the first multiplicity of encoded-media-data portions from the first data file and at least some of the second multiplicity of encoded-media-data portions from the second data file**.

Thus, Claim 1 is directed to an electronic device reconstructing a renderable portion of a media file by combining portions that were removed from the media file and stored in first and second files. The electronic device reconstructs a portion of the media file accordingly.

*See page 14 lines 11-12 (“The RM files 125 may remain on the portable computing device 107 for some time before being **combined** with a corresponding EM file 127 to reform the media file 119.”); page 16 lines 2-4 (“**Reconstruction** essentially comprises reversing the steps used to prepare the RM file 125 and EM file 127 from the original media file 119.”)*

Applicant respectfully submits that amended Claim 1 complies with the written description requirement and is allowable under 35 U.S.C. § 112, first paragraph. Independent Claims 15, 26, and 53 recite similar elements and are similarly allowable. Dependent Claims 2-8, 16-25, 27-31, and 54-60 are allowable at least by dependency.

Applicant further respectfully submits that new Claims 61-64 are disclosed in the specification at least at page 18 lines 16-24, which discusses Fig. 2B as follows:

Fig. 2B illustrates portions 203 of the media file 201 that may be removed by the media server to form an RM file, according to an embodiment of the invention. The removed portions 203 may include... other portions of the file selected according to a predetermined formula. For example, one formula may call for the removal of every X bytes, where X is a positive integer greater than 50. The formula may also approximate randomness **since the information removal scheme will either be incorporated into the EM file or provided to the media client in some other manner. In any event, the media client 117 has access to the information removal scheme when it is reconstructing the media file from the RM file.**

35 U.S.C. § 112, second paragraph, Rejections

Claims 1-8, 15-31, and 53-60 were rejected under 35 U.S.C. § 112, second paragraph, as being unclear with respect to the term “non-contiguous.” As discussed during the interview, Applicant has further clarified that the “non-contiguity” referred to in Claims 1-8, 15-31, and 53-60 does not refer to a physical non-contiguity, but rather to a “logical” non-contiguity. More particularly, the claimed “logically non-contiguous” intervals would be understood by one skilled in the art by way of reference to Figures 2A and 2B and according to the fundamental nature of a “media file” made up of “encoded-media-data portions” as would be understood by one skilled in the art.

Initially, Applicant proposes that those skilled in the art would consider the claimed “media file” to be a logical construct containing structured data. As the specification states on page 18 lines 13-15, discussing Fig. 2A, “The media file 201 may include data having a variety of types and formats, such as video data, audio data, and text data. The media file 201

typically includes a header 221 that **describes the file's contents and organization.**" Thus, the contents of a media file are organized according to a logical relationship that may be described in a header, and/or perhaps according to a file format specification.

At its most basic level, Applicant respectfully submits that the media file's "organization" necessarily implies that the logical construct that is the "file" has a logical beginning and a logical end, with the media file's "contents" "organized" between the file's logical beginning and end. The file's logical beginning and end exist independently of the way the file may be physically recorded to magnetic or optical storage media as managed by a file system and/or the way the file may be stored in memory according to a memory manager. Rather, as would be understood by those skilled in the art, the contents of the "media file" are organized in a sequence between the file's logical beginning and the file's logical end. The claimed "non-contiguous" intervals would be understood by those skilled in the art to relate to this organized sequence of contents within the file's logical boundaries.

According to The New Oxford American Dictionary, 2d Ed., the adjective "contiguous" means in this context "next or together in sequence." Thus, "logically non-contiguous intervals," as the term is used in Claims 1-8, 15-31, and 53-60, refer to "intervals" that are **not** together in sequence within the media file's internal organizational structure.

For example, consider Fig. 2B, reproduced below, which shows a media file as a logical construct including a "header 221 that describes the file's contents and organization." Page 18 line 15. A number of portions (numbered 203) are highlighted as "portions 203 of the media file 201 that may be removed by the media server to form an RM file." Page 18 lines 16-17.

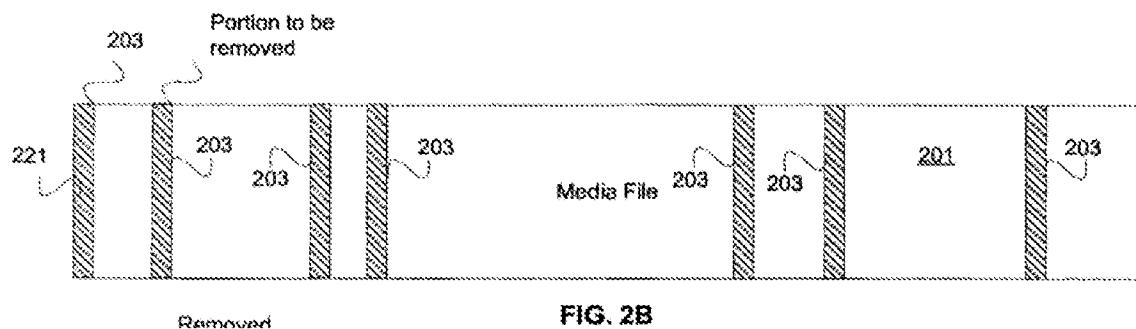
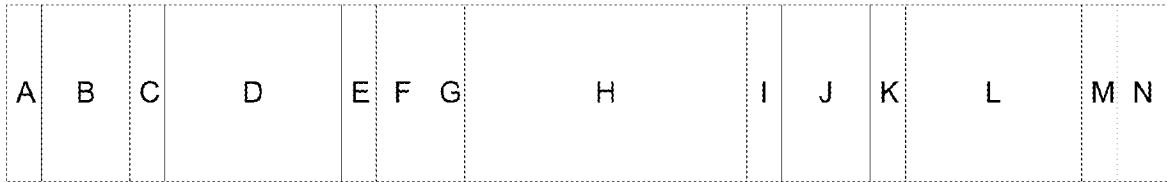


FIG. 2B

To assist in discussing this issue, Applicant has added additional labels to the media file 201, as illustrated in Fig. 2B:



Portion “A” corresponds to header 221; portions C, E, G, I, K, and M correspond to the several portions 203 in Fig. 2B; and portions B, D, F, H, J, L, and N correspond to the unlabeled portions of media file 201 in between labeled portions 203. In light of the above discussion, it is apparent that those skilled in the art would comprehend portions B and C (for example) to be “logically contiguous,” by virtue of their being together in the logically-organized sequence of media file 201. Similarly, it is apparent that those skilled in the art would comprehend portions C and E (for example) to be “logically non-contiguous,” by virtue of their **not** being together in the logically organized sequence of media file 201.

In light of the above discussion, Applicant respectfully submits that the term “logically non-contiguous” as used in Claims 1-8, 15-31, and 53-60 particularly points out and distinctly claims the subject matter claimed within those claims. Accordingly, Applicant respectfully submits that Claims 1-8, 15-31, and 53-60 are allowable under 35 U.S.C. § 112, second paragraph.

35 U.S.C. § 103(a) Rejections

Claims 1-8, 15-31, and 53-60

Claims 1-8, 15-31, and 53-60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mages*, in view of *Hazra*, and in further view of *Reitmeier*. Applicant disagrees with the rejections. Nonetheless, to advance prosecution, Applicant has amended Claims 1, 3, 7, 15-31, 53, 55, and 59-60 in light of the Examiner’s comments during the interview. Applicant respectfully submits that Claims 1-8, 15-31, and 53-60 are allowable over the cited art.

For example, Applicant respectfully submits that neither *Mages*, *Hazra*, nor *Reitmeier*, alone or in any possible combination teaches or even suggests an electronic device receiving first and second data files respectively comprising first and second multiplicities of

encoded-media-data portions from **first and second multiplicities of logically non-contiguous intervals spaced throughout the media file**, as claimed in Claim 1.

Further, Applicant respectfully submits that neither *Mages*, *Hazra*, nor *Reitmeier*, alone or in any possible combination teaches or even suggests that the electronic device is incapable of individually rendering the first and second data files based at least in part on their respective lacks of the first and second multiplicities of encoded-media-data portions.

In addition, Applicant respectfully submits that neither *Mages*, *Hazra*, nor *Reitmeier*, alone or in any possible combination teaches or even suggests the electronic device reconstructing a renderable portion of the media file by combining at least some of the first multiplicity of encoded-media-data portions from the first data file and at least some of the second multiplicity of encoded-media-data portions from the second data file, as claimed in Claim 1.

For at least the reasons discussed above, Applicant respectfully submits that Claim 1 is allowable over the cited art. Independent Claims 15, 26, and 53 recite similar elements and are similarly allowable. Dependent Claims 2-8, 16-25, 27-31, and 54-60 are allowable at least by dependency. In addition, Applicant respectfully submits that new Claims 61-64 are allowable over the cited art.

Conclusion

For at least the reasons above, Applicants respectfully submit that all pending claims are allowable and request that the Examiner permit these claims to proceed to issuance. Although additional arguments are believed to exist for distinguishing the cited documents, the arguments presented are believed sufficient to address the Examiner's rejections. Likewise, failure of the Applicants to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing arguments, and it is therefore not believed necessary to respond to every position taken by the Examiner with which Applicants do not agree.

The Examiner is respectfully requested to contact the undersigned at the telephone number below if there are any remaining questions regarding this application.

We believe the appropriate fees accompany this transmission. If, however, insufficient fee payment or fee overpayment occurs, the amount may be withdrawn or deposited from/to *ÆON* Law's deposit account. The deposit account number is 50-4051.

Respectfully submitted,

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